

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TERRY L. DEN ADEL, *et al.*,

Plaintiffs,

v.

WELLS FARGO BANK N.A.,

Defendant.

No. C11-0212RSL

ORDER GRANTING DEFENDANTS
WELLS FARGO AND FREDDIE
MAC'S MOTION FOR SUMMARY
JUDGMENT

This matter comes before the Court on “Defendants Wells Fargo and Freddie Mac’s Motion for Summary Judgment.” Dkt. # 58. Plaintiffs are proceeding *pro se* in this matter and allege claims arising from the involuntary sale of their property on December 11, 2009. In particular, plaintiffs allege that defendant Wells Fargo Bank, N.A., was not the beneficiary of the note when it initiated foreclosure proceedings under the Washington Deed of Trust Act, resulting in a violation of the statute for which plaintiffs seek monetary and declaratory relief. Defendants, however, have provided evidence of the existence of the note, plaintiffs’ default thereunder, and Wells Fargo’s physical possession of the note throughout the relevant period. Decl. of Brandon L. Cannon (Dkt # 59). Based on this evidence, defendants seek dismissal of plaintiffs’ remaining claims for violations of Washington’s Deed of Trust Act and declaratory relief.

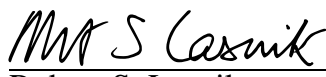
Plaintiffs oppose dismissal on the grounds that (a) defendants have failed to prove

1 the existence of a debt, (b) defendants have refused to identify the loan number and other
2 details of the purported debt, and (c) the record is incomplete because defendants did not
3 participate in discovery. Defendants have provided a copy of the signed note indicating
4 plaintiffs' indebtedness. Plaintiffs do not offer any evidence or argument challenging the
5 authenticity of the note or suggesting that plaintiffs discharged the note prior to foreclosure.
6 Thus, defendants have, in fact, proven the existence of the debt by a preponderance of the
7 evidence.

8 Plaintiffs' second and third objections both fail because discovery has closed in
9 this matter and plaintiffs have not identified any evidence they hope to find that would justify
10 denial of defendants' motion. The Court has reviewed the discovery plan produced by
11 plaintiffs in May 2011. Even if the Court were to find that the plan is really a request for
12 production under Rule 34, plaintiffs made no effort to obtain production even after defendants
13 filed their motion for summary judgment. In addition, plaintiffs have not explained how any of
14 the requested categories of documents would affect the outcome of defendants' motion. The
15 loan number and other details of the loan mentioned in plaintiffs' opposition (Dkt. # 62 at 2)
16 are not relevant to the determinative issue, namely Wells Fargo's possession of the note. The
17 Court will not engage in speculation regarding what the record could, but does not, contain.
18

19 For all of the foregoing reasons, defendants' motion for summary judgment is
20 GRANTED. Plaintiffs' remaining claims against Wells Fargo and Freddie Mac are dismissed
21 with prejudice.

22 Dated this 24th day of January, 2012.

23 
24 Robert S. Lasnik
25 United States District Judge
26